

More and more individual district courts decided: I have an opinion, and I am not going to decide about the case in front of me; I am going to decide about the entire country.

Under President Biden, there were 14 nationwide injunctions that happened. In fact, President Biden's Solicitor General—the one who actually argues to the Supreme Court—warned that nationwide injunctions halt legal government actions and policies.

See, this is not a Republican-Democrat thing; this is a constitutional thing. This is the U.S. Constitutional structure to say: What is the role of lower courts? What is the role of a circuit court? What is the role of the Supreme Court?

We as people in our Nation honor the constitutional construct. For me, it is exceptionally important that the courts are blind to these issues and that they take action on the case in front of them and not a case that is not in front of them.

Senator GRASSLEY has introduced a bill to rein in the use of nationwide injunctions. His legislation is called the Judicial Relief Clarification Act. It makes it very simple. It is an important piece of legislation to decide how we are going to handle cases like this. It is very simple: Courts decide the cases in front of them. That had been the practice up until the early 1960s. We need to get it to be back to that practice again.

It is not a Republican issue and not a Democrat issue. It is a constitutional issue.

Nationwide injunctions are a backdoor way for judges to actually write legislation and to bring the decision of the executive branch to a halt.

The executive branch does have checks and balances, as does the legislative branch, as does the judicial branch. Those checks and balances are clear. If the executive branch does something inconsistent with the Constitution, it goes to our Federal courts and quickly works its way up through the district court, circuit court, to the Supreme Court. The Supreme Court is the one who checks the executive branch, not each district court around the country. It is the Supreme Court. We need to be able get back to that process in the days ahead. That needs to be done.

So I am looking forward to seeing Senator GRASSLEY's legislation actually move.

CONGRESSIONAL REVIEW ACT

Mr. LANKFORD. Mr. President, a second issue. This body for the last week has had a conversation about CRAs, and most Americans would just flip the dial and go "I don't even know what that is."

Well, a Congressional Review Act is a CRA. It has actually only existed in the last several decades as Congress found a reason to do oversight of the executive branch, especially when the

executive branch writes what is called a midnight regulation. Now, that doesn't mean they wrote it at midnight; that means they wrote it and put it in place at the very end of a Presidency.

A Congressional Review Act says that if there is a piece of regulation that is put in place, a rule that is done by an Agency and it is put in place—especially when there is a change in Congress and the White House—that the next Congress and the next White House can look at it and say: Yeah, that is out of bounds. That is too big. That needs to be stopped.

It was actually first used under President Bill Clinton. He put in what is called an ergonomics rule that literally changed the rules for every keyboard on every desk in America that would be produced. It was a giant rule they did at the very end. The next Congress came in and said: That would cost hundreds of millions of dollars. By the way, why should we in the Federal Government care what everyone's desk is like? Let people choose on that.

That simple statement, that simple first time that it was actually used, started a process now of saying: If an administration at the last minute puts in a rule that Congress then comes in and says "You overreached your bounds," we can check it.

Now, how do you determine whether it is a rule or not? What is a rule? What is not a rule? Because a lot of times, Agencies put out guidance or they put out orders. They put out all kinds of things. The Congressional Review Act is very specific. It says that you can only take action on this when it is actually a rule.

Well, there are two different ways that is determined, actually. One is, how much is it going to cost the entire economy? If it is over \$100 million that it is going to cost the economy, it is a rule. It is going to have a massive effect across the entire economy.

The second way is pretty straightforward. The Government Accountability Office—you will hear it often referred to as GAO—in 2018, they came out and wrote their legal decision and said: It can even be a big thing that costs \$100 million across the government. I am going to quote GAO in this, in their decision that the CRA—the Congressional Review Act—gives Agencies the primary responsibility for determining which Agency actions meet the CRA's definition of "rule." In other words, Agencies get the first option to say: Is this a rule or is this not a rule? If an Agency says it is a rule, it is a rule. That is what GAO said.

They came back a couple years later and rewrote an updated document. GAO came out again and said in their legal opinion: When an Agency submits a document to our office—that is, GAO—under the CRA, we consider that to be the Agency's determination that the document is a rule under the Congressional Review Act.

Now, again, everyone is glazing over on this because it just seems like

legalese. Why are we even talking about this? Well, because it has been in the news this week because something unique happened.

In 2022, the State of California put in a request to the Biden administration and said: We want to do a rule that is different in our State for electric vehicles than the rest of the country.

Now, you may say: Well, they can't do that.

Well, actually, interestingly enough, California can. California is the only State in America—because they had environmental rules even before the Clean Air Act was done. So California got a waiver, basically, to say: If your rules are at least as strong as the Clean Air Act, you can have your own rules, but you have to ask permission.

So that is part of law that was originally written on the Clean Air Act.

So California approached the Biden administration in 2022 and said: We would like to have an even stronger rule on emissions and on vehicles. We want to have a rule that says that by 2026, 35 percent of all vehicles have to be zero emission—that is, electric vehicles—by 2026.

Now, they asked for this in 2022. So they said: Within 4 years, we want 35 percent of all the vehicles sold in California to be zero emission, and by 2035, we want 100 percent of all vehicles to be electric vehicles, to be zero-emission vehicles.

Now, they asked for that in 2022, as I mentioned before. The Biden administration took a look at it, and in 2023, the Biden administration sat down with the GAO, the Government Accountability Office, and they started working on the text for this. The specific question was: How can we make sure that this is not a rule; that this is an order? And for months, they worked to be able to shape the language to be able to make sure it was an order, not a rule. And then the Biden administration sat on it and did nothing with it. In the meantime, 11 other States said: If California does that for electric vehicles, we are going to do that as well.

Here is the other thing about the law I didn't mention. The way the Clean Air Act gave permission to California to be able to do their own rules, the Clean Air Act is also written to say: If other States want to adopt the California rule because it is at least as strong as the national, other States could do it. So in the next few months, from 2022 and 2023, 11 other States adopt this rule. Suddenly, this is not a single-State issue; this is a national issue. In fact, it would now affect 40 percent of all the vehicles sold in America. This just shifted. This is not about one State anymore. This is almost half the vehicles sold in America now are going to have a new set of rules.

The Biden administration sat on that request. They didn't move on it. They have gotten their opinion worked out with GAO in 2023, but they didn't move on it, quite frankly, because the American people hate mandates. We don't

like them at all. We like choice. We like to make our own decisions. I would dare say, everybody in this room uses a different kind of ink pen because we all like our choices and options. We drive different cars. We wear different colors of ties and different shoes because we like our options.

The Biden administration knew most American people would hate this rule because it suddenly created a nationwide mandate for what kind of car you could buy, and it had to be electric. So they sat on it.

After the election was over, in late December of 2024 and into January of 2025, the Biden administration dropped their order and gave California permission now to be able to do zero-emission vehicles by 2026. Next year, 35 percent of vehicles that have to be sold across 12 different States were going to have to be zero emissions, which would dramatically change car sales in America.

They did it after the election. That is the very definition of a midnight regulation. That is the very definition of a rule. It meets both criteria. It is well over \$100 million of impact onto our Nation, and it affects multiple States.

So when the Trump administration came into office, the Environmental Protection Agency immediately reupped this, and they laid it down and said: That is definitely a rule. That is a rule. The Agency declared it. Now, it definitely has both definitions: The Agency declared it is a rule, and it is over \$100 million of impact.

But then a letter went to GAO. Remember I said in 2023, they had worked with the Biden administration? Someone in this body wrote a letter to GAO and said: That thing you worked out with the Biden administration, do you still have that in the file? And GAO sent a letter back and said: We declared this, in 2023, just an order because it only affected one State, just California.

Here is the problem. GAO, as I mentioned in the beginning, in their very own legal opinion, said: If an Agency says it is a rule, it is a rule. And GAO doesn't even get involved. Literally, GAO broke its own legal opinion to now declare it is an order.

Why would they do that? Well, they would do that to prevent this Congress from speaking to that rule. It would no longer be under the Congressional Review Act.

I told you this was technical. But this was a fascinating little plot that went from 2022 all the way to the present to try to figure out how to get an electric vehicle mandate in America without ever having a vote in Congress. It was slick. It was well-shaped—except it was dependent on one thing: GAO breaking its own legal opinion.

I happened to call the leadership of GAO just last week and said: As far as you know, has GAO ever—ever—declared something not a rule when the Agency said it was a rule? And after a moment of silence, he responded: As far as I know, GAO has always deferred to the Agencies, until now.

They literally broke their own policy. They literally violated their own legal counsel. So now, we are in a quandary. GAO has broken their own legal counsel. We have an issue that will have well over \$100 million worth of effect onto the country. It is now a near nationwide mandate on electric vehicle sales across the country without ever having a vote in Congress.

And our Democratic colleague says you can't change it because we worked a way to be able to fix it so you couldn't. That is not true. This body worked extensively with the Parliamentarian's office. This body worked extensively across the aisle to be able to have conversation, talking with members of the Democratic caucus to say: Do you really want to have, in your State, a mandate sitting there?

We don't.

Not only that, what will this do to our economy across the country? This was not about challenging the essence of the Senate; this was not about breaking the filibuster rule; this was not about going nuclear. This is about confronting an entity that broke its own rules intentionally to prevent this body from acting. This was a decision made to say: Get an Agency to impose on America a mandate that Congress never spoke to—never.

Where does Congress get to speak to this?

I would say to you as a Member of the U.S. Senate, the U.S. Congress is the lawmaking body for the country. The U.S. Constitution begins with "All legislative power shall reside in a Congress," not an Agency that wants to have electric vehicle mandates for every American. That is not how it works.

So we worked to make sure that we were clarifying one simple thing—in the Congressional Review Act, in this time as it has been every time it has been done and for every time in the future, this one simple question: When an Agency says it is a rule, is it a rule? It has been every other time until this time.

We clarified that one question. It didn't change the dates of the Congressional Review Act. It didn't change the process. It answered one question that, apparently, was in dispute that was never in dispute before but now appeared to be in dispute: When an Agency says it is a rule, is it a rule?

And we clarified what it has always been. The answer is, yes, it is a rule. And then we acted on that.

This body said, no, we will not have a nationwide mandate for electric vehicles across the country.

By the way, I don't have any opposition to electric vehicles. If somebody wants to buy an electric vehicle, they should be able to buy them. I think a lot of them look like great vehicles. Buy if you choose to.

But we are Americans. This body should not mandate that everyone has to be able to buy one. This body should make the path that if people choose to

buy one, they can. That is setting the rules of the road saying: Here is the definition of a safe vehicle. Pick any one of those safe vehicles you want to be able to have.

We just set the rules of the road and then get out of the way and let people decide which vehicle they want to drive on that road. That is what has happened this week.

I understand there has been a lot of bluster and trying to redefine what actually occurred. But what has occurred this week is choice for the American people and clarification of what has always been: When an Agency says it is a rule, it is a rule—just like it was last year, just like it is now, just like it will be next year.

It is technical but important because the American people want to follow the U.S. Constitution and know that all legislative powers resides with this body, not in some other building somewhere down the street.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

HISTORIC GREENWOOD DISTRICT— BLACK WALL STREET NATIONAL MONUMENT ESTABLISHMENT ACT

Mr. LANKFORD. Mr. President, I wanted to thank the Presiding Officer and several folks because we passed by unanimous consent today a national monuments piece for the Greenwood District in Oklahoma.

On May 31 of 1921, the largest race massacre in American history occurred in my great State of Oklahoma. It was in North Tulsa. That community was burned to the ground and destroyed in a race massacre. It is a scar on our Nation's history and on my State's history, but it is an area that we remember for a reason because we know how far we have come.

The community in North Tulsa and Greenwood—they are turning tragedy into triumph. They are starting new businesses. It is a beautiful area, and it continues to be able to grow and advance, but it still bears the scars of over 100 years ago of the incredible fire and massacre that happened there.

What we did today with unanimous consent didn't change the property rights of any person in Tulsa or in Oklahoma. It didn't add eminent domain. It didn't change codes. It didn't give the Federal Government control of any square inch of my great State. It just gave a designation—a monument designation—to that area. It is very similar to some other places in that it is just a designation so that we will always remember as a nation that something significant happened here.

And it is not just about what happened on that day, May 31, into June 1 of 1921. It is what it was like before, when it was Black Wall Street, a thriving community. It was like what it was like afterward, when people stayed and rebuilt a community. It is like what it